

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

O.F.,

Plaintiff,

v.

Civ. No. 16-084 KG/GBW

MARK WALDEN, *et al.*,

Defendants.

ORDER QUASHING ORDER TO SHOW CAUSE

THIS MATTER is before the Court on Defendant Dr. Mark Walden's Response to Order to Show Cause and File a Quarterly Report. *Doc. 55*. On January 1, 2019, the Court issued an Order to Show Cause (*doc. 53*), ordering Defendant Walden to submit a quarterly status report and show cause why the Court should not assess sanctions against him for failing to comply with the Court's April 25, 2016 Order (*doc. 18*).

Defendant Walden explains in his Response that he provided information about the status of his criminal investigation in responses to motions on both February 23, 2018 (*doc. 43*)¹ and September 13, 2018 (*doc. 49*). *See doc. 55* at 1. He acknowledges that he did not file a separate quarterly status report on either occasion, and may thereby

¹ The Court is not persuaded that the information contained in the February 23, 2018 Response constituted a status report in any meaningful sense. Defendant Walden apparently refers to the statement: "As Dr. Walden advised the Court in his most recent Quarterly Status Report...it is his understanding, through his counsel and others that the criminal investigation remains ongoing." *Doc. 43* at 2. This statement refers to a previous status report rather than providing a current update. The remainder of the Response is devoted to argument.

inadvertently have violated the Court's April 25, 2016 Order (*doc. 18*). He further acknowledges that no status update whatsoever was filed in the second quarter of 2018. *See doc. 55* at 1–2.

The Court notes that, even if it were to accept status reports not separately filed, Defendant Walden filed quarterly status reports during only two quarters of 2018 (the first quarter and the third quarter). However, having read Defendant Walden's explanation and assurances that future status reports will be filed separately and on time, *see doc. 55* at 2, the Court is satisfied that neither Defendant Walden nor his counsel should be subject to sanctions for their failure to comply.

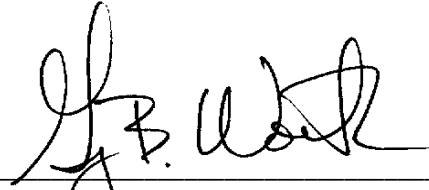
To provide apparently needed clarity, the Court hereby supplements its original Order with the following guidance. IT IS ORDERED that Defendant Walden's quarterly status reports are due no later than the following dates each year:

- (1) **March 31** (first quarter)
- (2) **June 30** (second quarter)
- (3) **September 30** (third quarter)
- (4) **December 31** (fourth quarter)

IT IS FURTHER ORDERED that quarterly status reports may not be included in other filings, but must be filed separately. In addition, Defendant Walden may not substitute multiple filings during one quarter (e.g., status reports filed in both January and February) for the required status report of another quarter (e.g., the second quarter).

Accordingly, the Court's Order to Show Cause (*doc. 53*) is hereby QUASHED.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE